

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

JENNIFER VANDERSTOK, *et al.*,

*Plaintiffs,*

v.

MERRICK GARLAND, in his official  
capacity as Attorney General of the United States;  
*et al.*,

*Defendants.*

Civil Action No. 4:22-cv-00691-O

**PLAINTIFFS' NOTICE REGARDING CONTESTED JURISDICTION**

On September 27, 2022, counsel for Plaintiffs and counsel for Defendants conducted their second joint scheduling call for this matter. During that conferral, Defendants informed Plaintiffs that Defendants contest the Court's subject matter jurisdiction and plan to file a motion to dismiss for lack of the same. Because a ruling regarding subject matter jurisdiction may have implications for the Preliminary Injunction Order on which Tactical Machining relies to conduct its business, Plaintiffs request that this issue be addressed on an expedited basis. *See Burnham v. Superior Court of Calif.*, 495 U.S. 604, 608–09 (“[A]n order entered without jurisdiction is a nullity without legal effect.”); *Brumfield v. La. State Bd. of Educ.*, 806 F.3d 289, 298 (5th Cir. 2015) (reasoning that an order may be void “if the court that rendered it lacked jurisdiction of the subject matter”).

Plaintiffs felt it necessary to bring this matter to the Court's attention immediately, in advance of the Joint Scheduling Report, given that the question of subject matter jurisdiction underlies the Court's existing preliminary injunction. Similar to Defendants' Motion for Clarification, a motion to dismiss for lack of subject matter jurisdiction may expose the

Preliminary Injunction Order to collateral attack and the consequences to Tactical Machining increase every day they operate under the Order that Defendants continue to indirectly challenge.

Plaintiffs also note that they intend to file an amended petition, adding one count to their claims, and, to continue to facilitate expeditious resolution of this matter, will do so by October 5, 2022. Plaintiffs' new claim will be based on the First Amendment to the United States Constitution and Plaintiffs do not believe the amendment will affect the jurisdictional analysis. Plaintiffs remain committed to resolving this case as quickly as possible, including their continued commitment to expeditious summary judgment briefing once the record is lodged and finalized.

DATED this 1st day of October, 2022.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that, on October 1, 2022, a true and correct copy of the foregoing document was served via the Court's CM/ECF system to all counsel of record.

/s/ Erin M. Erhardt

Erin M. Erhardt

MOUNTAIN STATES LEGAL FOUNDATION